

ENTERED

February 17, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

RIGOBERTO SILVA, JR.,

Plaintiffs,

VS.

IVAN MELENDEZ, *et al*,

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 7:21-cv-00001

ORDER

The Court now considers the Report and Recommendation issued by the Magistrate Court on January 25, 2022.¹ The report recommends that Defendant Melendez's Motion for Summary Judgment² and Defendant Hidalgo County's Motion for Summary Judgment³ (Dkt. No. 45) be granted and Plaintiff's federal claims be dismissed with prejudice. The report further recommends that Defendants' Joint Objections⁴ and Plaintiff's Motion for Joinder⁵ be denied as moot; and any state law claims asserted by Plaintiff should be dismissed without prejudice.

Plaintiff has filed timely objections to the Magistrate Court's Report and Recommendation. Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court has made a de novo determination of those portions of the report to which objections have been made. As to those portions to which no objections have been made, in accordance with Federal Rule of Civil Procedure 72(b), the Court has reviewed the report for clear error.

Having thus reviewed the record in this case, the parties' filings, and the applicable law,

¹ Dkt. No. 49.

² Dkt. No. 44.

³ Dkt. No. 45.

⁴ Dkt. No. 36.

⁵ Dkt. No. 37.

the Court adopts the Report and Recommendation as set out herein.

Accordingly, it is hereby **ORDERED** that Defendant Ivan Melendez, M.D.'s Traditional Motion for Summary Judgment⁶ and Defendant Hidalgo County's Motion for Summary Judgment⁷ are **GRANTED** and Plaintiff's federal claims are hereby **DISMISSED with prejudice**. With the dismissal of the federal claims, Defendants' Joint Objections⁸ are hereby **DENIED as moot**. Plaintiff's Motion for Joinder⁹ is fully considered on the merits pursuant to Rule 20(a)(2)(A)-(B) and construed as a motion for leave to amend pursuant to Rule 15(a)(2). Having considered the appropriate factors, the motion is **DENIED due to futility**. Any state law claims asserted by Plaintiff are herein **DISMISSED without prejudice**.

The Clerk's Office is hereby **ORDERED** to close out this cause of action.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 17th day of February 2022.



Micaela Alvarez
United States District Judge

⁶ Dkt. No. 44.

⁷ Dkt. No. 45.

⁸ Dkt. No. 36.

⁹ Dkt. No. 37.